UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

Devin J. Arnold, as Natural Father and Next Friend of minors K.D.A. and B.J.A.	)	
	)	**Case No.**
Plaintiffs,	)	
v.	)	
Mississippi County, Missouri	)	
	)	**JURY TRIAL DEMANDED**
And	)	
Cory Hutcheson, In Both His Individual and Official Capacities as Jail Administrator	)	
And	)	
Josh Cooper, In Both His Individual and Official Capacities as Corrections Officer of the Mississippi County Detention Center	)	
And	)	
Sally Yanez, In Both Her Individual and Official Capacities as Communications Officer of the Mississippi County Detention Center	)	
And	)	
Chris Wooten, In Both His Individual and Official Capacities as Corrections Officer of the Mississippi County Detention Center	)	

	)
And	)
	)
Curtis Arnold, In Both His Individual and Official Capacities as Charleston Department of Public Safety Officer	)
	)
And	)
	)
James Williams, In Both His Individual and Official Capacities as Charleston Department of Public Safety Officer	)
	)
Defendants.	)

COMPLAINT

COMES NOW Plaintiff Devin Arnold as Natural Father and Next Friend of minor children K.D.A. and B.J.A., and brings the following suit against the Defendants who are sued in their individual and official capacities, and for his cause of action would show:

INTRODUCTION

1. Devin J. Arnold, on behalf of his minor children K.D.A. and B.J.A., seeks judgment against Defendants for violation of Somer Nunnally's (deceased mother of minor children K.D.A. and B.J.A.) rights under the Eighth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. §§ 1983 and 1988; violation of her rights under the Missouri Constitution; and Missouri's negligence, negligent supervision, negligent training, negligent retention, and wrongful death laws. Plaintiffs also seek judgment against Defendant Mississippi County, Missouri, for implicitly or explicitly adopting and implementing policies, customs, or practices that included, among other things, allowing correction officers with no or inadequate training to assess the conditions, including the medical conditions and/or withhold medical treatment and/or deny medical treatment to

inmates with serious medical needs, including Ms. Nunnally. These policies, customs, or practices and/or failure to have the same reflected a deliberate indifference to the serious medical needs of Ms. Nunally.

JURISDICTION AND VENUE

2. This action is brought, in part, pursuant to 42 U.S.C. § 1983 for the deprivation of civil rights; jurisdiction is therefore appropriate under 28 U.S.C. §§ 1331 and 1343.

3. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.

4. The claims asserted herein arose in the Eastern District, Southeastern Division in Mississippi County, and venue is therefore proper under 28 U.S.C. § 1391(b) and E.D.Mo.L.R.. 3-2.07(B)(2).

PARTIES

5. Devin J. Arnold is and was at all times relevant herein the natural father and is now the court-appointed next friend of minor Plaintiffs K.D.A. and B.J.A. Both K.D.A. and B.J.A. are the natural children of Somer D. Nunnally, deceased.

6. Devin J. Arnold, on behalf of minor Plaintiffs K.D.A. and B.J.A. is therefore the appropriate party to bring this action on behalf of all members of the class for wrongful death pursuant to R.S.Mo. § 537.080.

7. Defendant Mississippi County, Missouri ("Mississippi County") is a political subdivision of the State of Missouri and operates the Mississippi County Detention Center ("MCDC"), a jail located in Mississippi County, Missouri.

8. Mississippi County is the political subdivision of the State of Missouri that is responsible for the wrongful death of Ms. Nunnally, which was caused by the intentional acts and/or

failures to act of the duly appointed deputies and officers of the Mississippi County Sheriff's Department, who were acting by virtue of or under color of the office at the time, as well as the negligent acts and/or omissions of each and every other Defendant, who were employees and/or agents of said county, and were acting within their scope of employment.

9. At all times relevant hereto, Defendant Cory Hutcheson was a citizen and resident of Mississippi County, Missouri, and was acting in his capacity as Jail Administrator of MCDC, employed by Mississippi County, Missouri, and was acting under the color of State law at the time of Ms. Nunnally's death. He is hereby sued in both his individual and official capacities. As jail administrator, he was responsible for the daily operations of the MCDC and, upon information and belief, the policymaker for Mississippi County with respect to the operations of the MCDC.

10. At all times relevant hereto, Defendant Josh Cooper was a citizen and resident of Mississippi County, Missouri, and was acting in his capacity as Corrections Officer of MCDC, employed by Mississippi County, Missouri, and was acting under the color of State law at the time of Ms. Nunnally's death. He is hereby sued in both his individual and official capacities.

11. At all times relevant hereto, Defendant Sally Yanez was a citizen and resident of Mississippi County, Missouri, and was acting in her capacity as Communications Officer of MCDC, employed by Mississippi County, Missouri, and was acting under the color of State law at the time of Ms. Nunnally's death. She is hereby sued in both her individual and official capacities.

12. At all times relevant hereto, Defendant Chris Wooten was a citizen and resident of Mississippi County, Missouri, and was acting in his capacity as Corrections Officer of

MCDC, employed by Mississippi County, Missouri, and was acting under the color of State law at the time of Ms. Nunnally's death. He is hereby sued in both his individual and official capacities.

13. At all times relevant herein, Defendants Hutcheson, Cooper, Yanez, and, Wooten were employed and/or acted as agents of the Mississippi County Sheriff's Department.

14. At all times relevant hereto, Defendant Curtis Arnold was a citizen and resident of Mississippi County, Missouri, and was acting in his capacity as Charleston Department of Public Safety (CPDS) Officer, employed by the City of Charleston, Missouri, and was acting under the color of State law at the time of Ms. Nunnally's death. He is hereby sued in both his individual and official capacities.

15. At all times relevant hereto, Defendant James Williams was a citizen and resident of Mississippi County, Missouri, and was acting in his capacity as CDPS Officer, employed by the City of Charleston, Missouri and was acting under the color of State law at the time of Ms. Nunnally's death. He is hereby sued in both his individual and official capacities.

16. Mississippi County has established and/or delegated to Defendant Hutcheson and/or other Defendant employees of the MCSD the responsibility of establishing and implementing policies, practices, procedures, and customs of administration in the MCDC in providing medical care, medical screening, safety screenings, and appropriate monitoring of each inmate; and for implementing policies, practices, procedures, and/or customs for training other corrections officers in these matters.

17. All negligent and/or intentional acts and/or omissions which caused injury to and the death of Ms. Nunnally, occurred while she was in the custody of the CPDS located in Charleston, Mississippi County, Missouri.

18. All negligent and/or intentional acts and/or omissions which caused injury to and the death of Ms. Nunnally, occurred while she was incarcerated in the MCDC located in Charleston, Mississippi County, Missouri.

19. These causes of action arose under the 8th and 14th Amendments of the United States Constitution and 42 USC § 1983, and 1988; under the Constitution of the State of Missouri; and under Missouri Common Law for Negligence, Negligent Supervision, Negligent Training, Negligent Retention, and Wrongful Death.

20. Each of the intentional and/or negligent acts and/or omissions complained of herein which caused injury to and the death of Ms. Nunnally occurred between May 2, 2015 and May 3, 2015, the date of her death in the MCDC and/or while in the custody of the CPDS.

FACTS

21. On or about May 2, 2015, Defendant Arnold was dispatched to 101 S. Sixth Street in Charleston, Missouri.

22. After arriving on the scene, Defendant Arnold became suspicious that Ms. Nunnally was intoxicated and performed a field sobriety test, concluding that she was intoxicated as a result of drugs.

23. Ms. Nunnally had just purchased pills prior to her arrest.

24. Defendant Arnold found that Ms. Nunnally's pupils were restricted and her eyes were glassy.

25. Defendant Arnold found she was slow to start the field tests, had to stop at times to steady herself, lost her balance, stepped off the line several times, used her arms to attempt to balance herself, missed some heel-to-toe steps, swayed while balancing, and put her foot down because she was unable to balance.

26. Defendant Arnold had to stop the field test for Ms. Nunnally's safety.

27. Defendant Arnold placed Ms. Nunnally in wrist restraints and placed her in the back of the patrol car.

28. At the scene of the crash, Defendant Arnold asked Ms. Nunnally's friend if "she had taken as many pills as her [Somer]" indicating he was aware of Ms. Nunally's severe level of intoxication and dangerous condition.

29. Ms. Nunnally was known to Defendant Arnold and other CPDS officers as being a person who took illegally obtained drugs and illegal drugs, including intoxicating and mind altering medicines.

30. Defendant Arnold asked Ms. Nunnally's friend if she saw Ms. Nunnally take anything that day, and the friend stated that Ms. Nunnally had a prescription for Xanax and Lorecets but frequently bought more off the streets.

31. After her arrest, at approximately 6:25 p.m., Ms. Nunnally was transported to the CDPS location.

32. At the CDPS, Defendant Arnold observed Ms. Nunnally falling asleep and he had to speak to her to wake her up.

33. At the CDPS, Ms. Nunnally was released from the wrist restraints, interviewed, and allegedly signed a Statement of Rights and Waiver of Rights form.

34. Thereafter, Officer Arnold placed wrist restraints back on Ms. Nunnally, placed her in the back of his patrol car, and took her to the Missouri Delta Medical Center for a blood draw for future prosecution.

35. Around 7:30 pm, Defendant Arnold took possession of two grey top vials filled with Ms. Nunnally's blood.

36. Ms. Nunnally was then transported to Miner Police Department in order to pick up another inmate, before being taken back to CDPS to finishing processing.

37. Around 8:40 p.m., Ms. Nunnally was transferred into Defendant James William's custody and transported to the MCDC.

38. It does not appear that Ms. Nunnally's person was searched prior to being delivered to the MCDC.

39. When Defendant Williams arrived at the MCDC with Ms. Nunnally he stated to Defendant Yanez to "have fun with the female [s]he is a little wound up."

40. Defendant Williams also provided MCDC staff a copy of the arrest report given to him by Defendant Arnold.

41. The arrest report detailed the above mentioned incidents, including that at the crash scene Ms. Nunnally had constricted pupils and glassy eyes. It also detailed her failing the field tests as stated above and that the tests were stopped because of safety concerns.

42. The arrest report also detailed Ms. Nunnally's friend's statement regarding Ms. Nunnally buying pills off the street, as well as having a prescription for them.

43. The arrest report also detailed that Ms. Nunnally was failing asleep at the CDPS.

44. Ms. Nunnally was known to Defendant employees of the MCDC as being a person who took illegally obtained drugs and illegal drugs, including intoxicating and mind altering medicines.

45. Ms. Nunnally had been incarcerated at MCDC on prior occasions.

46. Defendant Williams was asked by MCDC staff what kind of drugs or alcohol Ms. Nunnally had taken, and he replied that he was not sure.

47. Defendant Josh Cooper began the booking process around 9:00 p.m.

48. Throughout the entire fifty-minute booking process, Ms. Nunnally was swaying, falling asleep, passing out, slumping over, and almost falling out of her chair on multiple occasions.

49. During the entire time Ms. Nunnally is sitting in the chair at the booking counter, she consistently slumps to the side and forward and then awakens in a startled state when Defendants call out to her.

50. On multiple occasions, Ms. Nunally is slumped completely over so that her head is close to the floor.

51. On at least three occasions, Ms. Nunnally is slumped forward and the chair almost tips forward.

52. Even while she is being spoken to by Defendants Cooper and Wooten, Ms. Nunally is falling asleep and almost falling out of her chair.

53. Defendant Cooper noticed that she was obviously impaired on something.

54. Defendant Cooper tried to keep her awake the whole time he was booking another detainee.

55. The other detainee even gestures at Ms. Nunnally and appears to whistle at her to awaken her while she is slumped over to no avail.

56. At one time, Ms. Nunnally stumbles to her feet, stumbles forward and backward, and was instructed to sit back down by Defendants.

57. Defendant Chris Wooten also noticed she appeared to be fighting to stay away during the intake process and was rocking back and forth.

58. Ms. Nunnally is slumped forward and Defendant Wooten bangs on the counter for her to wake up.

59. Ms. Nunnally startles and then immediately drifts back down to sleep.

60. Defendant Wooten throws his hands up in the air and walks out of the room leaving Ms. Nunnally with Defendant Cooper.

61. Defendant Cooper then hits the counter two times to wake Ms. Nunnally and she gets out of the chair and stumbles to the counter.

62. Defendant Cooper asked Ms. Nunnally about any medication she had taken and she allegedly responded that she had taken one muscle relaxer earlier that day.

63. Defendant Yanez then comes to the counter.

64. Ms. Nunnally begins taking her rubber bands out of her hair, but is stumbling during the process and pausing with her actions.

65. At around 9:34, Defendant Sally Yanez took Ms. Nunally into a room and performed a strip search.

66. During the search, Defendant Yanez removed an EBT card, a one dollar bill and a cigarette lighter from her bra.

67. Defendant Yanez did not believe Ms. Nunally was attempting to sneak these items into the facility.

68. Defendant Yanez asked Ms. Nunnally if she was on any drugs or alcohol and she stated she had taken a sleeping pill.

69. While Defendant Yanez performs a wanding metal detector search, Ms. Nunnally loses her balance and stumbles.

70. Ms. Nunnally was placed back into a chair and again starts to pass out and lean forward.

71. During the booking process, Ms. Nunnally indicated: “I do authorize emergency medical treatment” on the Medical Questionnaire.

72. Ms. Nunnally was allegedly incapable of signing her name on the Medical Questionnaire and, instead, marked an "x" in the signature line.

73. On prior booking documents, Ms. Nunnally was able to sign her name, although each signature became more illegible.

74. Ms. Nunnaly continues to pass out while she is standing up signing the booking documents.

75. The pen slips out of her hand while she tried to sign the documents.

76. On multiple occasions, Defendant Cooper had to point to where she was supposed to sign, and place the pen back in her hand.

77. Ms. Nunnally was booked on a "12-hour hold".

78. At 9:41 p.m., Ms. Nunnally was placed in Cell 118 "to sleep off the drugs in her system".

79. When Defendant Yanez brought Ms. Nunnally a mat and blanket, Ms. Nunnally stated "that I was going to cook her something to eat" and Defendant Yanez told her that "the best thing for her to do is to lay down and sleep it off."

80. Later, Ms. Nunnally walked to the toilet area, which is out of view of the camera.

81. Around 10:20 p.m., Ms. Nunnally falls off the toilet and onto the floor.

82. Around 11:28 p.m., Defendant Wooten looks into Ms. Nunnally's cell.

83. Defendant Wooten then leaves the area.

84. Defendant Wooten returns to the cell at 11:29 p.m. and walks into the cell. He stays in the cell for about 30 seconds and then leaves.

85. Ms. Nunnally appeared to have fallen asleep beside the toilet almost immediately after the fall.

86. No MCDC officer checked on her again until 2:07 a.m., when Defendant Wooten looks into the cell. He looks in again at 2:08 a.m.

87. Defendant Cooper looks into the cell against at 2:08 a.m., almost 2:09 a.m..

88. Ms. Nunnally makes no apparent movements after 2:18 a.m.

89. At 2:28 a.m. Defendant Wooten peers into her cell.

90. Defendant Cooper peers into her cell at 2:32 a.m., laughs, and continues to stand outside her cell for a brief moment.

91. At 2:38 a.m. Defendants Cooper and Wooten both place their ears up to Ms. Nunnally's cell door.

92. At 3:19 a.m. Defendant Cooper gestures towards Ms. Nunnally's cell door with Defendant Wooten.

93. At 4:43 a.m. Defendant Cooper peers in Ms. Nunanlly's door and starts laughing and jumps back at what he sees.

94. At 4:45 a.m., Defendants Cooper and Wooten walk to Ms. Nunnally's cell door and Defendant Cooper is laughing and pointing at the door.

95. At 4:47 a.m., Defendant Yanez walks to the door and peers in and whips her head back at what she sees. Defendant Wooten is carrying on in the background.

96. Defendant Wooten peers back into the cell at 4:52 a.m.

97. Defendant Cooper walked by and quickly peered in at 4:58 a.m.

98. Upon information and belief, Ms. Nunnally was crying and asking for help and medical attention.

99. Sometime that morning, Defendant Cooper noticed that Ms. Nunnally had urinated on herself and left her there.

100. At 6:00 a.m. rounds, Officer Faith Altamirano arrived and found Ms. Nunnally unresponsive.

101. Officer Altamirano informed Jail Administrator Defendant Cory Hutcheson that Ms. Nunnally had discolored skin and that she was unresponsive.

102. Officer Altamirano then moved Ms. Nunnally to a position lying on her back, checked for a pulse but was unable to detect one.

103. Soon thereafter, Mississippi County Ambulance personnel performed an EKG which revealed no activity in Ms. Nunnally's heart.

104. At 7:47 am, Ms. Nunnally’s body was transported from the facility under the direction of Coroner Parker.

105. Ms. Nunnally was in custody for less than fourteen hours and was found dead in her cell room.

106. After performing an autopsy and receiving the toxicology report back, Coroner Parker came to the conclusion that Ms. Nunnally died from mixed drug intoxication.

107. The Death Certificate alleges that Ms. Nunnally was found around 5:00 a.m., yet no one was contacted regarding her death until after 6:00 a.m.

108. Defendants knew of Ms. Nunnally’s need for medical attention, and they repeatedly and continually disregarded an excessive risk to Ms. Nunnally’s health and safety.

109. Defendants were aware that Ms. Nunnally had an objectively serious medical need as it was obvious based on her condition, information from Ms. Nunnally’s friend at the scene of the crash, and Defendants’ comments about her condition.

110. Defendants individually and in concert with one another intentionally, willfully, maliciously, and while acting under the color of State law showed a deliberate indifference to Mr. Nunnally’s serious needs, including medical needs and intervention, in that they had actual knowledge of her intoxicated condition and did not provide any medical treatment

or allow her contact with anyone who could provide proper and/or adequate medical treatment, and in fact ignored her pleas for assistance.

111. Defendants individually and in concert with one another through the policies and procedures instituted by them and Defendant Mississippi County fostered an environment which led to the deliberate indifference of Ms. Nunnally's serious needs in contravention of her civil rights.

112. Defendant Mississippi County was negligent in their supervision of the MCDC and the employees, deputies, and/or correction personnel therein.

113. Each of the Defendants, individually and in concert with one another, acted under the color of State law in both his/her individual and official capacities to deprive Ms. Nunnally of her right to adequate and/or proper care, including medical care. This is a right secured to the Ms. Nunnally by the 8th and 14th Amendments to the Constitution of the United States and by 42 U.S.C §1983.

114. As a direct and proximate result of the intentional and/or negligent acts of all Defendants, minors K.D.A. and B.J.A. suffered the loss of their mother.

115. As a direct and proximate result of the actions of all Defendants described above and pursuant to Mo. Rev. Stat. 537.090, Plaintiffs have been damages as follows: damages that decedent Somer Nunnally suffered between the time of her incarceration to the time of her death, and for the recovery of which the decedent might have maintained an action had death not ensued; pecuniary loss suffered by reason of the death of Somer Nunnally; funeral expenses; and a reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and the support of which Plaintiffs have been deprived by reason of the death of Somer Nunnally.

116. All of the aforementioned actions demonstrate that Defendants' actions were reckless and/or callously indifferent to Ms. Nunnally's rights so as to justify consideration by the trier of fact of aggravating circumstances in determining the amount of damages to be allowed.

117. Minor plaintiffs K.D.A. and B.J.A. are entitled to compensation for violations of Ms. Nunnally's constitutional rights that all Defendants inflicted upon her, including but not limited to all damages allowable for wrongful death pursuant to R.S.Mo. § 537.080; pain and suffering before death; attorneys' fees; and punitive damages.

CAUSES OF ACTION

COUNT 1:
Violation of Civil Rights Pursuant to Title 42 U.S.C. § 1983

118. Plaintiffs incorporate by reference the allegations made in each preceding paragraph as if each were set forth here verbatim.

119. From the time Ms. Nunnally was in custody, Ms. Nunnally had objectively serious medical needs.

120. Ms. Nunnally's medical need was so obvious that even a layperson would easily recognize the need for medical attention.

121. Ms. Nunnally's serious medical need was apparent by her actions and by the fact that Defendant Arnold asked her friend if she had taken as many pills as Ms. Nunnally.

122. Ms. Nunnally's serious medical need was apparent by her actions and by the fact that Defendant Willaims stated she was "a little wound up."

123. Ms. Nunnally's serious medical need was apparent by her actions and by the fact that Defendant Cooper and Yanez both inquired about what Ms. Nunnally had taken.

124. Ms. Nunnally was showing obvious signs of severe intoxication, suggesting an overdose.

125. Ms. Nunnally made not movements after 2:18 a.m.

126. Despite Ms. Nunnally's obvious signs of severe intoxication and overdose, Defendants failed to provide her medical care. Instead, they sent her to her cell to "sleep it off."

127. A reasonable officer would have understood that failing to seek medical care for one who exhibited the signs of Ms. Nunnally would violate her constitutional rights.

128. Defendants deliberately disregarded Ms. Nunnally's objectively serious medical needs.

129. Given Ms. Nunnally's condition, a reasonable officer in Defendants' position would have understood that failing to get her medical care violated her constitutional right.

130. From the time Ms. Nunnally was in custody, Defendants were aware that she was under the influence of alcohol or drugs and required medical attention.

131. Defendants knew that there was a substantial risk that Ms. Nunnally was in a critical state and her need for medical attention was obvious.

132. Defendants deliberately disregarded Ms. Nunnally's objectively serious medical needs.

133. Defendants refused to allow Ms. Nunnally to obtain any medical care or take any other reasonable measures to deal with Ms. Nunnally's condition.

134. In committing the acts complained of herein, Defendants acted under color of State law to show deliberate indifference to a serious medical need and to the substantial risk of death by Ms. Nunnally after having actual knowledge of such need for care, including medical care, and in deprivation of Ms. Nunnally's rights under the Due Process Clause of the 14th Amendment of the United States Constitution.

135. Defendants were required to contact a nurse of the Jail Administrator when Ms. Nunnally appeared to need emergency medical care and they failed to do so.

136. This policy was ministerial in nature.

137. As a direct and proximate result of the violation of Ms. Nunnally's constitutional rights by the Defendants, Ms. Nunnally suffered general and special damages as alleged in the Complaint and is herein entitled to relief under 42 U.S.C. §1983.

138. The conduct of the Defendants was willful, malicious, oppressive, and reckless and are of such nature that punitive damages should be imposed in the amount commiserate with the wrongful acts alleged herein.

WHEREFORE, Plaintiffs pray this Court:

A. Enter judgment in favor of Plaintiffs and against Defendants;
B. Award Plaintiffs compensatory damages and damages for aggravating circumstances against Defendants;
C. Award Plaintiffs punitive damages;
D. Award Plaintiffs reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law; and
E. Allow such other relief as the Court deems just and proper.

COUNT 2:
Violation of Civil Rights Pursuant to Title 42 U.S.C. §1983
(Failure to Implement Appropriate Policies, Customs, and Practices and Failure to Train, Supervise and Retain)

139. Plaintiffs incorporate by reference the allegations made in each preceding paragraph as if each were set forth here verbatim.

140. From the time Ms. Nunnally was in custody, Ms. Nunnally had objectively serious medical needs.

141. Defendants deliberately disregarded Ms. Nunnally's objectively serious medical needs.

142. Given Ms. Nunnally's condition, a reasonable officer in Defendants' position would have understood that failing to get her medical care violated her constitutional right.

143. Defendant Mississippi County's policy, custom and/or practice resulted in Ms. Nunnally's constitutional violations.

144. Defendant Mississippi County's custom and/or practice to ignore clear signs of severe intoxication and not provide medical treatment or respond to an inmate if they were "sleeping" deprived Ms. Nunnally of her constitutional rights.

145. Alternatively, Defendant Mississippi County's failure to have an adequate policy, custom and/or practice resulted in Ms. Nunnally's constitutional violations.

146. Defendant Mississippi County developed and maintained policies, customs and practices exhibiting deliberate indifference to Ms. Nunallly's constitutional rights.

147. Alternatively, Defendant Mississippi County failed to have adequate policies, customs and practices to protect inmate's constitutional rights

148. Defendant Mississippi County developed a Policy and Procedure titled "Access to Medical Care" which is grossly inadequate and ignores constitutional rights.

149. Said Policy and Procedure provides, inter alia,:

   a. that detainees will have "an initial medical screening, cost-effective primary medical care, and emergency care."

   b. define medical personnel as "[t]he health care staff will have a valid professional licensure and or certification."

   c. "All new arrivals shall receive initial medical and mental health screening immediately upon their arrival by a health care provider or an officer trained to perform this function. This screening shall include observation and interview items related to the detainee's potential suicide risk and possible mental disabilities, including mental illness and mental retardation."

d. "The health care provider will conduct a health appraisal and physical examination on each detainee within 14 days of arrival at the facility."

e. "A detainee will be hospitalized only on the order of a physician and with administrative notification."

f. "If a detainee requires emergency medical care, the officer will immediately take steps to contact the nurse or Jail Administrator though established procedures."

g. "Detention staff will be trained to respond to health-related emergencies within a 4-minute response time. This training will be provided by a responsible medical authority in cooperation with the Jail Administrator and will include the following: The recognition of signs of potential health emergencies and the required response…The facility plan and its required methods of obtaining emergency medical assistance. The recognition of signs and symptoms of mental illness (including suicide risk) retardation, and chemical dependency."

h. "Detention Staff are not responsible for detecting the presence of a medical condition or other medical situation in circumstances where information is knowingly withheld by the inmate."

i. "Detention Staff shall when directed by administrative staff or may when deemed necessary place an inmate on medical observation. Medical observation is to be conducted in a holding cell with a surveillance camera present."

j. "Detention Staff should, to the extent possible, not purposefully awaken a sleeping inmate – including those on medical observation – where it is evidence the inmate is breathing and does not appear to be medically endangered."

150. These policies violate Ms. Nunnally's constitutional rights in failing to get her medical care when needed.

151. Defendant Mississippi County developed a Policy and Procedure titled "Detainee Searches."

152. Said Policy and Procedure provides, inter alia:

   a. Purpose of Searches: "Prevent contraband (weapons, drugs, escape, devices, etc,) from being introduced into the detainee population…Detect injuries or other visually apparent medical complications to avoid spreading contagious illness or conditions to others. Discovery hazards to health or safety unnoticed during a more routine inspection."

153. Defendant Mississippi County developed a "Hold Rooms" policy, which was inadequate.

154. Defendant Mississippi County failed to train, supervise, and retain MCDC staff on the rights of intoxicated inmates, thereby demonstrating a deliberate indifference to Ms. Nunnally when it left her in the care and custody of untrained and improperly supervised MCDC staff members.

155. This failure to train amounts to a deliberate indifference to the rights of persons whom MCDC staff come into contact with, including Ms. Nunnally.

156. Upon information and belief, Defendant Mississippi County appointed deputies and/or corrections officers, who were not a licensed and/or adequately trained medical professionals, to screen the needs, including medical needs of inmates incarcerated in the MCDC.

157. Upon information and belief, Defendant Hutcheson, as the jail administrator, was the highest ranking MCDC official, had direct management supervision over the jail staff and

was responsible for setting and implementing County policy with respect to the jail. In the alternative, Defendant Hutcheson was inadequately trained and supervised by Defendant Mississippi County.

158. From May 2, 2015, to May 3, 2015, Ms. Nunnally was a detainee and inmate at the MCDC, where she came under the care, custody and control of Defendants, during which time, and at all times, she was in serious need of care, including medical care, a fact which Defendants, through their agents and employees knew.

159. Defendants Hutcheson and Mississippi County, implicitly or explicitly adopted and implemented policies, customs, or practices that included, among other things, allowing correction officers with no or inadequate training to assess the conditions, including the medical conditions and/or withhold medical treatment and/or deny medical treatment to inmates with serious medical needs, including Ms. Nunnally, which policies, customs, or practices reflected a deliberate indifference to the serious medical needs of Ms. Nunnally.

160. The failures of Defendants to adequately train and/or supervise their employees, deputies, and/or corrections officers, amounts to deliberate indifference to Ms. Nunnally's serious needs, including medical needs.

161. The failures of Defendants to institute policies and procedures that would provide Ms. Nunnally with reasonable access to a properly and/or adequately trained and/or qualified medical provider amounts to deliberate indifference to Ms. Nunnally's serious medical needs.

162. At the time of the above-described series of events it was the custom or policy of Defendant Mississippi County to inadequately supervise and train its corrections officers with

intoxicated inmates, thereby evidencing a deliberate indifference to Ms. Nunnally's constitutional rights.

163. Defendant Mississippi County was deliberately indifferent to Ms. Nunnally's constitutional rights by failing to have a policy in place to protect the rights of intoxicated inmates.

164. The need for training MCDC staff on the rights of intoxicated inmates is obvious, and the lack of training by Mississippi County was so inadequate that it was likely to result in violating the rights of intoxicated inmates, including Ms. Nunnally.

165. Defendant Mississippi County's failure to supervise MCDC staff constituted a tacit authorization of the offensive acts.

166. In committing the acts complained of herein, Defendants acted under color of State law to show deliberate indifference to a serious medical need and to the substantial risk of death by Ms. Nunnally after having actual knowledge of such need for care, including medical care, and in deprivation of Ms. Nunnally's rights under the Due Process Clause of the 14^{th} Amendment of the United States Constitution.

167. As a direct and proximate result of the violation of Ms. Nunnally's constitutional rights by the Defendants, Ms. Nunnally suffered general and special damages as alleged in the Complaint and is herein entitled to relief under 42 U.S.C. §1983.

168. The conduct of the Defendants was willful, malicious, oppressive, and reckless and are of such nature that punitive damages should be imposed in the amount commiserate with the wrongful acts alleged herein.

WHEREFORE, Plaintiffs pray this Court:

F. Enter judgment in favor of Plaintiffs and against Defendants;

G. Award Plaintiffs compensatory damages and damages for aggravating circumstances against Defendants;

H. Award Plaintiffs punitive damages;

I. Award Plaintiffs reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law; and

J. Allow such other relief as the Court deems just and proper.

COUNT 3:
Wrongful Death

169. Plaintiffs incorporate by reference the allegations made in each preceding paragraph as if each were set forth here verbatim.

170. Defendants owed a duty to ensure the safety of inmates and detainees of the MCDC, specifically Ms. Nunnally. This duty included the duty to provide adequate medical care.

171. Defendants breached their duty of care in failing to provide any care, including medical care; in failing to properly assess and examine Ms. Nunnally; and in failing to properly monitor Ms. Nunnally.

172. As a direct and proximate result of the aforementioned negligence and breach of care by the Defendants, Somer Nunnally was injured, caused to suffer conscious pain, suffering, and loss of life, and Plaintiffs sustained damage, as more fully set forth herein.

173. That by reason of the foregoing premises, Plaintiffs are entitled to recover fair and reasonable damages against the Defendants, and each of them, as provided for in § 537.080 R.S.Mo, for the wrongful injuries to and the wrongful death of Somer Nunnally, including special damages for her funeral and burial.

174. From the beginning of her detention described hereinabove until her untimely death, Ms. Nunnally suffered physical and mental pain which is an item of damage to be considered and awarded.

175. Defendants' conduct in this case, as set forth in this Complaint constitutes aggravating circumstances within the meaning of the laws of the State of Missouri. Furthermore, this conduct was undertaken with knowledge that such conduct produced a high degree of probability of injury to Somer Nunnally or others similarly situated, and was done with such reckless or callous indifference and conscious disregard for the life and safety of others so that public policy requires punishment through the form of aggravating circumstances.

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them jointly and severally, for damages, including prejudgment interest, in a fair and reasonable sum in excess of $75,000.00, her costs incurred herein, punitive damages, and for such other relief as is deemed appropriate by the Court.

INJURIES AND DAMAGES

176. Plaintiffs incorporate by reference the allegations made in each preceding paragraph as if each were set forth here verbatim

177. As a direct and proximate result of the negligence set forth above, decedent Ms. Nunnally suffered great personal injury, pain and suffering and mental anguish prior to her death.As a direct and proximate result of the Defendants' deliberate indifference to the serious medical needs of decedent Ms. Nunnally, she was forced to suffer the following severe, permanent and devastating injuries: the decedent was caused to suffer a deterioration of her condition, severe anxiety and distress, severe mental anguish, and all said conditions led to high levels of anxiety and anguish, and these conditions caused her

great physical pain and mental suffering prior to her death. Defendants' deliberate indifference to the serious medical needs of decedent Ms. Nunnally worsened and exacerbated decedent's condition, causing her great physical pain and mental anguish.

178. As a direct and proximate result of the deliberate indifference to the serious medical needs of decedent Ms. Nunnally, Plaintiff has been deprived of decedent's valuable services, companionship, comfort, consortium, instruction, guidance, counsel, training, support, love, and affection. Additionally, decedent suffered great physical pain and mental anguish through the time period of the Defendants' deliberate indifference to her serious medical needs. Plaintiff has also incurred expenses by way of funeral and burial expense.

179. As a direct and proximate result of the Defendants' deliberate indifference to decedent Ms. Nunnally's serious medical needs, the decedent suffered the loss of life, and with it the loss of future income and enjoyment of life.

180. Plaintiff is entitled to recover punitive damages from the Defendants for their intentional, willful, and malicious acts and/or omissions which constituted a deliberate indifference to the Ms. Nunnally's serious medical needs in violation of his civil rights pursuant to 42 U.S.C. § 1983.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury on all of the above issues, costs herein incurred, fees where appropriate, and for such other relief as is deemed appropriate by the Court.

Respectfully submitted,

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